

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

TIFFANEE NICHOLE EDMONDSON,

Plaintiff,

v.

CAROLYN W. COLVIN, Commissioner
of Social Security,

Defendant.

Case No. 2:11-CV-02027-KJD-PAL

ORDER

Presently before the Court is Plaintiff's Motion for Attorney Fees pursuant to 42 U.S.C. § 406(b) (#17). Plaintiff's attorney is asking for 25% of the total past-due benefits awarded, or \$15,650.48. Defendant filed a Response (#18).

I. Background

After being denied benefits by the Social Security Administration ("SSA"), Tiffanee Nichole Edmondson ("Plaintiff") retained an attorney to challenge the decision in federal court. Following the Court's stipulated remand the Commissioner ("Defendant") awarded past-due benefits of \$62,601.90 to Plaintiff (#17, 1). The SSA had previously awarded the attorney for Plaintiff \$671.44 in Equal Access to Justice Act ("EAJA") fees, which were then garnished by the Department of the Treasury

1 and applied towards Plaintiff's outstanding student loan debt (#17, 1). Consequently, Plaintiff's
2 attorney never received any EAJA fees.

3 II. Legal Standard

4 Under 42 U.S.C. § 406(b)(1)(A) district courts are to determine what attorney fees are
5 "reasonable" for Social Security Disability Insurance ("SSDI") claimants, but those fees must not
6 exceed "25 percent of the total past-due benefits to which the claimant is entitled." In determining
7 what are reasonable attorney fees, this Court follows the approach outlined in the *en banc* Ninth
8 Circuit decision Crawford v. Astrue, 586 F.3d 1142 (9th Cir. 2009). The reviewing court must
9 respect "the primacy of lawful attorney-client fee agreements," but also test them "for
10 reasonableness." Crawford, 586 F.3d at 1148. Crawford, a consolidation of three separate cases
11 (Crawford, Trejo, and Washington), applied the factors articulated by the Supreme Court in
12 Gisbrecht v. Barnhart, 535 U.S. 789, 808 (2002). Fees may be reduced by the court "[1] if the
13 attorney provided substandard representation, or [2] engaged in dilatory conduct in order to increase
14 the accrued amount of past-due benefits, or [3] if the benefits are large in comparison to the amount
15 of time counsel spent on the case." Id. at 1148. See Gisbrecht, 535 U.S. at 808 (court should prevent
16 "windfalls for lawyers"). To determine whether the contingency fee is unreasonable the court may
17 require the attorney to provide a statement of the number of hours worked on the case, and the
18 attorney's regular hourly rate. Crawford, 586 F.3d at 1148. "The attorney bears the burden of
19 establishing that the fee sought is reasonable." Id. at 1148.

20 III. Analysis

21 Counsel for Plaintiff is asking the Court to approve a fee of \$15,650.48, which is 25% of the
22 total \$62,601.90 past-due benefits awarded to Plaintiff. The attorney fees are thus at the 25% cap
23 allowed by 42 U.S.C. § 406(b).

24 "The attorney bears the burden of establishing that the fee sought is reasonable." Crawford,
25 586 F.3d at 1148. There is no evidence that Plaintiff's attorney provided "substandard
26 representation," or that he was "dilatory." However, the court must also decide whether "the benefits

1 are large in comparison to the amount of time counsel spent on the case.” In determining the
2 reasonableness of the attorney fees the court may look at the number of hours worked on the case and
3 the attorney’s regular hourly rate. However, counsel never provided the Court with the total number
4 of hours worked on this case, or the attorney’s regular hourly rate. Without these numbers, there is no
5 way for the Court to determine whether “the benefits are large in comparison to the amount of time
6 counsel spent on the case,” and consequently whether the requested fee is reasonable.

7 IV. Conclusion

8 Accordingly, **IT IS HEREBY ORDERED** that Plaintiff’s Motion for Attorney Fees (#17) be
9 **DENIED** until further documentation is provided;

10 **IT IS FURTHER ORDERED** that Plaintiff submit to the Court an affidavit declaring (1)
11 the attorney’s regular hourly rate, and (2) the number of hours worked on this case.

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13 DATED this 15th day of May 2014.

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Kent J. Dawson
United States District Judge